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<b>JAMES B. BARTOLL, Appellant</b>	)	
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<b>and</b>	)	<b>Docket No. 05-427</b>
	)	<b>Issued: August 4, 2005</b>
<b>U.S. POSTAL SERVICE, MAIN POST OFFICE,</b>	)	
<b>Troy, MI, Employer</b>	)	
	)	

*Case Submitted on the Record*

Before:  
ALEC J. KOROMILAS, Chief Judge  
COLLEEN DUFFY KIKO, Judge  
DAVID S. GERSON, Judge

On December 6, 2004 appellant filed a timely appeal of an October 5, 2004 merit decision of the Office of Workers' Compensation Programs' hearing representative. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this decision.

The issue is whether appellant has established that he sustained a recurrence of disability beginning April 1, 2004 causally related to his August 22, 2002 employment injury.

On August 23, 2002 appellant, then a 54-year-old part-time flexible mail processing clerk, filed a traumatic injury claim alleging that on August 22, 2002 he experienced pain and swelling in his right foot while carrying a tub of flats to be placed into an all purpose container. Appellant stated that he hit an indentation in the dock floor and twisted his foot. He accepted the employing establishment's offer of limited-duty work on August 23, 2002. In support of his claim, appellant submitted an August 23, 2002 duty status report from a physician whose

signature is illegible which indicated that he sustained a contusion of the right foot on August 22, 2002. He also submitted a form for authorization for medical treatment and billing dated August 23, 2002 from the same physician whose signature is illegible which found that appellant had a severe contusion of the right foot and noted his medical treatment.

The Office received an unsigned x-ray report dated August 27, 2002, which contained the typed name of Dr. Denise D. Collins, a Board-certified radiologist. This report revealed that appellant had healing stress fractures of the second and fourth metatarsals. The Office received another unsigned medical report dated August 24, 2002, which contained the typed name of Dr. Jayant C. Sanghvi, Board-certified in emergency and family medicine. This report indicated that appellant sustained a right foot contusion.

On April 4, 2004 appellant filed a claim alleging that he sustained a recurrence of disability causally related to the August 22, 2002 injury. He indicated that he returned to his regular work duties on August 28, 2002.

By letter dated April 27, 2004, the Office advised appellant about the type of factual and medical evidence he needed to submit to establish his recurrence of disability claim. In a letter of the same date, the Office accepted appellant's claim for a contusion of the right foot.

On May 11, 2004 appellant filed a claim for compensation for the period April 4, 2004 through the date he filed his claim. He submitted leave records covering the period March 20 through May 14, 2004. Appellant also submitted a May 12, 2004 attending physician's report of Dr. David A. Katcherian, a Board-certified orthopedic surgeon, in which he provided a history that appellant twisted his right foot on August 22, 2002 while lifting a tub of mail. He diagnosed "Lifrace sprain right mid foot with degenerative arthosis -- post-traumatic and neuropathic." Dr. Katcherian indicated with an affirmative mark that appellant's conditions were caused by the injury at work.

In a May 26, 2004 report, Dr. Katcherian stated that appellant had a 17-year history of diabetes and that he had been following him off and on since 1993. He also stated that on March 16, 2004 appellant presented to him with a three-month history of progressive right foot pain and swelling. Appellant related the problems with his foot to an injury he sustained at work on August 22, 2002. On physical examination, Dr. Katcherian reported a very warm and swollen foot. On x-ray examination, he reported a significant breakdown of the mid-foot with osteopenia consistent with a diabetic neuropathic fracture. Dr. Katcherian noted that appellant was placed on strict restrictions for sedentary activities only and into a short leg walking cast. He also noted that appellant was last seen on May 12, 2004 and that an x-ray taken on that date revealed early healing of the neuropathic fractures. Dr. Katcherian concluded that appellant was still in a short leg walking cast with the same restrictions until his foot healed.

By decision dated June 1, 2004, the Office found the evidence of record insufficient to establish that appellant sustained a recurrence of disability beginning April 1, 2004 causally related to the August 22, 2002 employment injury. Accordingly, the Office denied appellant's claim.

Following the issuance of the Office's June 1, 2004 decision, appellant submitted a May 25, 2004 letter in which he described his work duties, the medical treatment he received following the August 22, 2002 employment injury and the development of his recurrence of disability. Appellant attributed his recurrence of disability to working 40 hours a day, six days a week for several months. He stopped work on April 4, 2004. Appellant concluded that his foot never healed properly after the August 22, 2002 employment injury and that it became progressively worse. He submitted an April 2, 2004 letter in which the employing establishment advised him that no light-duty work was available at that time because his physician restricted him from driving. The employing establishment further advised that appellant's future request for light-duty work would be considered after his medical restrictions were reduced.

In a letter dated June 14, 2004, appellant requested a review of the written record by an Office hearing representative. He submitted Dr. Katcherian's June 9, 2004 report in which he reiterated the history provided in his May 26, 2004 report. On physical examination, Dr. Katcherian noted that appellant's right foot continued to be very warm and swollen. X-rays showed a significant breakdown of the mid-foot with osteopenia consistent with post-traumatic arthrosis from a Lisfranc injury. He stated that appellant may have further destruction from superimposed diabetic neuropathic fractures. He further noted that appellant's cast had been changed monthly. Dr. Katcherian reported that a June 9, 2004 x-ray showed healing of the neuropathic fractures superimposed over the post-traumatic deformity. He stated that appellant would continue to wear the cast and keep the same restrictions until his foot healed. Dr. Katcherian concluded that appellant's foot problems began with his initial Lisfranc injury.

By decision dated October 5, 2004, the Office hearing representative affirmed the Office's June 1, 2004 decision. The hearing representative found the evidence submitted by appellant insufficient to establish that he sustained a recurrence of disability after March 2004 causally related to the August 22, 2002 employment-related injury.<sup>1</sup>

### **LEGAL PRECEDENT**

A "recurrence of disability" means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which resulted from a previous injury or illness without an intervening injury or new exposure to the work environment.<sup>2</sup>

A person who claims a recurrence of disability has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability, for which he claims compensation is causally related to the accepted employment injury.<sup>3</sup> Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence a causal

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<sup>1</sup> In the October 5, 2004 decision, the hearing representative noted that appellant's allegation that working six days a week for several months contributed to his foot condition constituted a new employment factor. She advised appellant to discuss whether his condition was related to his work duties over a long period of time with his physician and if so, then he should file an occupational disease claim.

<sup>2</sup> 20 C.F.R. § 10.5(x) (2002).

<sup>3</sup> *Kenneth R. Love*, 50 ECAB 193, 199 (1998).

relationship between his recurrence of disability and his employment injury.<sup>4</sup> This burden includes the necessity of furnishing evidence from a qualified physician who, on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury.<sup>5</sup> Moreover, the physician's conclusion must be supported by sound medical reasoning.<sup>6</sup>

The medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury.<sup>7</sup> In this regard, medical evidence of bridging symptoms between the recurrence and the accepted injury must support the physician's conclusion of a causal relationship.<sup>8</sup> While the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty.<sup>9</sup>

### ANALYSIS

The Office accepted that appellant sustained a contusion of the right foot. On April 4, 2002 he sought compensation for his ongoing right foot problems. The Board finds that appellant has failed to submit rationalized medical evidence establishing that the claimed recurrent right foot problems are causally related to his accepted employment-related right foot contusion of August 22, 2002.

Appellant submitted a form for authorization for medical treatment and billing dated August 23, 2002 from a physician whose signature is illegible, which found that he sustained a contusion of the right foot. He also submitted an unsigned report dated August 24, 2002, which contains Dr. Sanghvi's typed name and found that he had a contusion of the right foot. An unsigned report dated August 27, 2002, which contains Dr. Collins' typed name, found that appellant's stress fractures of the second and fourth metatarsals were healing. As the signature on the authorization form is illegible, it is not clear whether a physician signed the form. Thus, the Board finds that this form has no probative value.<sup>10</sup> Similarly, the reports which contained Dr. Sanghvi's and Dr. Collins' typed names are of no probative value because they are not signed by a physician.<sup>11</sup> As the authorization form and reports lack proper identification, the

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<sup>4</sup> *Carmen Gould*, 50 ECAB 504 (1999); *Lourdes Davila*, 45 ECAB 139 (1993).

<sup>5</sup> *Ricky S. Storms*, 52 ECAB 349 (2001); *see also* 20 C.F.R. § 10.104(a)-(b).

<sup>6</sup> *Alfredo Rodriguez*, 47 ECAB 437 (1996); *Louise G. Malloy*, 45 ECAB 613 (1994).

<sup>7</sup> *See Ricky S. Storms*, *supra* note 5; *see also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

<sup>8</sup> For the importance of bridging information in establishing a claim for a recurrence of disability, *see Richard McBride*, 37 ECAB 748 at 753 (1986).

<sup>9</sup> *See Ricky S. Storms*, *supra* note 5; *Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>10</sup> *Vickey C. Randall*, 51 ECAB 357 (2000); *Merton J. Sills*, 39 ECAB 572 (1988) (Reports not signed by a physician lack probative value).

<sup>11</sup> *Id.*

Board finds that they do not constitute probative medical evidence sufficient to establish appellant's burden of proof.

Appellant submitted Dr. Katcherian's May 12, 2004 report in which he diagnosed Lisfranc sprain of the right mid-foot with degenerative arthrosis and post-traumatic and neuropathic fractures. Dr. Katcherian indicated with an affirmative mark that appellant's conditions were caused by the August 22, 2002 employment injury. As Dr. Katcherian's report does not provide any medical rationale explaining how or why appellant's conditions were caused by the accepted employment injury, the Board finds that the report is insufficient to establish appellant's claim. This type of report, without more by way of medical rationale explaining how the incident caused the injury is insufficient to establish causal relationship and is of diminished probative value.<sup>12</sup>

In reports dated May 26 and June 9, 2004, Dr. Katcherian found that appellant's neuropathic fractures were healing based on x-ray examinations. He stated that appellant should continue wearing the walking leg cast and following the prescribed restrictions until his foot healed. In the June 9, 2004 report, Dr. Katcherian opined that appellant's foot problems started with his initial Lisfranc injury. The Board finds Dr. Katcherian's May 26, 2004 report insufficient to establish appellant's burden of proof as it fails to address whether his current right foot problems are causally related to the accepted employment injury. The Board also finds Dr. Katcherian's June 9, 2004 report insufficient to establish appellant's burden of proof because he did not explain how or why appellant's foot problems are caused by the accepted employment-related injury.

As appellant has failed to submit rationalized medical evidence establishing that he sustained a recurrence of disability beginning April 1, 2004 that was causally related to his August 22, 2002 employment injury, he has not met his burden of proof.

### **CONCLUSION**

The Board finds that appellant has failed to establish that he sustained a recurrence of disability April 1, 2004 causally related to his August 22, 2002 employment injury.

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<sup>12</sup> See *Frederick H. Coward, Jr.*, 41 ECAB 843 (1990); *Lillian M. Jones*, 34 ECAB 379 (1982).

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 5 and June 1, 2004 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: August 4, 2005  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

David S. Gerson, Judge  
Employees' Compensation Appeals Board